



**THE ATTORNEY GENERAL
OF TEXAS**

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AUSTIN, TEXAS 78711

October 15, 1968

Superseded by Opinion No. *M-426*

as to trailers

Mr. J.C. Dingwall
State Highway Engineer
Texas Highway Department
Austin, Texas

Opinion No. M-292

Re: Applicability of drive-a-way in-transit license plates authorized under Art. 6686(b), V.C.S., to new autos and trucks transported by dealers; to new trailer and mobile home transportation; and related question.

Dear Mr. Dingwall:

You request an official opinion of this office on the following questions:

- "1. May the drive-a-way in-transit license plates authorized under Article 6686(b), Vernon's Civil Statutes be issued to automobile and truck dealers of Texas for the purpose of transporting new vehicles from the manufacturer or any other point of origin to their places of business or any other points of destination in Texas?
- "2. May these drive-a-way in-transit license plates be used to transport and deliver new trailers and mobile homes?
- "3. May these drive-a-way in-transit license plates be issued to persons, firms, or corporations who are not residents of Texas and have no business establishments in this State?"

The paragraph presently constituting Section (b) was added to Article 6686, Vernon's Civil Statutes, in 1939 by the adoption of H.B. No. 794, Acts of the Forty-sixth Legislature, Chapter 5, page 613. It has remained unchanged since enactment. Prior to this addition, Article 6686 related only to dealers and manufacturers and contained no provision authorizing the transportation and delivery of motor vehicles by

means of driving or towing over the public highways of this State by one not a dealer or manufacturer without proper and separate registration of each vehicle. Attorney General's Opinion No. V-179 (1947). The purpose for Section (b) is clearly stated in the emergency clause of H.B. No. 794, which reads, in part, as follows:

"The fact that the present law regulates only automobile dealers bringing new vehicles into the State, and the further fact that there are many motor vehicles brought into the State of Texas over its public highways by drive-a-way operators who are not licensed under the present law, create an emergency and an imperative public necessity. . ."

Section (a) of Article 6686 authorizes the issuance of dealer's and manufacturer's license plates for unregistered motor vehicles, motorcycles, house trailers, trailers, and semitrailers. Said Section (a) provides for road testing of new vehicles by duly licensed manufacturers and provides for the transportation and conveyance of unregistered vehicles by a licensed dealer within this State, including the moving of such vehicles from the state line to the dealer's place of business.

It is the opinion of this office that Section (b) of Article 6686 was intended to regulate only those engaged in business as drive-a-way operators who are not otherwise regulated or licensed to transport or deliver new unregistered vehicles and that Section (a) thereof was intended to regulate and provide for the transportation and conveyance of unregistered vehicles upon the highways of this State by duly licensed manufacturers or dealers. Therefore, we answer your first question in the negative.

In reply to your second question, it is the opinion of this office that Section (b) of Article 6686 was intended to regulate the transportation or delivery of new vehicles under their own power by drive-a-way operators utilizing the full mount method, the saddle mount method, the tow bar method, or any other combination thereof.

The caption of H.B. No. 794 refers to motor vehicles in the following language:

" . . . providing for the issuance of in-transit permits by the State Highway Commission to any person, firm or corporation engaged in and using the drive-a-way system of transporting motor vehicles under their own power; . . ." (Emphasis added).

Section (b) refers specifically to the enumerated methods by which drive-a-way operators may transport or deliver new vehicles under their own power. It explicitly requires that the operator's general distinguishing number be carried and displayed by each motor vehicle, and it further provides a penalty for the failure or refusal of such an operator to make proper application to so transport new motor vehicles under their own power. The emergency clause of H.B. No. 794 particularly speaks of "motor vehicles brought into the State of Texas. . .by drive-a-way operators. . ." who were not previously regulated or licensed under the law.

It follows, therefore, that such drive-a-way in-transit license plates were not intended for use on vehicles incapable of self-propulsion, such as trailers or mobile homes, and we must answer your second question in the negative.

Answering your third question, we first observe that Section (a) of Article 6686 requires that a dealer be customarily engaged in the business of buying, selling, or exchanging vehicles at an established and permanent place of business and that a manufacturer must manufacture or assemble new vehicles in this State to qualify for a license as provided thereunder.

Section (b) merely requires that the in-transit operator engage in the business of transporting and delivering new vehicles by the enumerated methods in this State. There are no specific requirements that such an operator be a resident of this State or that he maintain a business establishment in this State to qualify for a drive-a-way license; consequently, we answer your third question in the affirmative.

We call your attention to the fact that Article 6686 is a vehicle registration statute only and this opinion is not intended to construe or interpret the regulation of traffic for compensation or hire or any of the other laws of this State.

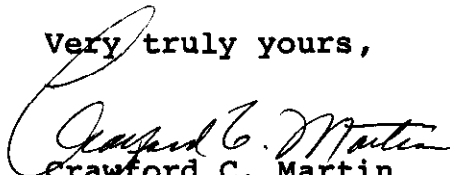
SUMMARY

Section (b) of Article 6686, V.C.S. was intended to regulate only those engaged in business as drive-a-way operators and not automobile and truck dealers who are regulated and licensed under Section (a) thereof.

Section (b) of Article 6686, was intended to regulate the transportation of new vehicles under their own power by drive-a-way operators utilizing the enumerated methods. Each vehicle so transported must be capable of self-propulsion, and such drive-a-way in-transit license plates could not be used to transport and deliver new trailers and mobile homes.

There are no specific requirements that an in-transit operator be a resident of this State or maintain a business establishment in this State to qualify for issuance of drive-a-way in-transit license plates as provided in Section (b) of Article 6686.

Very truly yours,


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